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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/757,819	
	Filing Date	January 15, 2004	
	First Named Inventor	Fred J. Molz IV	
	Art Unit	3774	
	Examiner Name	Javier G. Blanco	
Total Number of Pages in This Submission	18	Attorney Docket Number	MSDI-667/PC860.00

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to Notice of Non-Compliant Amendment; Return Receipt Postcard
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Krieg DeVault LLP		
Signature			
Printed name	Brad A. Schepers		
Date	September 23, 2008	Reg. No.	45,431

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Brad A. Schepers	Date	September 23, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE


In re patent application of:)	Before the Examiner:
Fred J. Molz IV)	Javier G. Blanco
)	
Serial No.: 10/757,819)	Group Art Unit: 3774
)	
Filed: January 15, 2004)	Attorney Docket: MSDI-667/
)	PC860.00
)	
SPINAL IMPLANT CONSTRUCT AND)	September 23, 2008
METHOD FOR IMPLANTATION)	

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT UNDER 37 CFR 1.121

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Non-Compliant Amendment dated September 18, 2008 (one month to respond), please enter and consider the following amendments and remarks. No extension fees are believed to be due with regard to the filing of this Response. However, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:	
September 23, 2008	_____
Date of Deposit	_____
Brad A. Schepers	_____
Name of Registered Representative	_____
	_____
Signature	_____
September 23, 2008	_____
Date of Signature	_____

INTRODUCTORY COMMENTS

Claims 3-24, 27-34, 63-71, 73-85 and 87-90 were pending in the subject application for the non-final Office Action dated February 26, 2008. The Applicant filed a response to the non-final Office Action on May 27, 2008. A Notice of Non-Compliant Amendment was mailed to the Applicant on September 18, 2008 indicating that the response to the non-final Office Action filed on May 27, 2008 was not fully responsive due to discrepancies between the claims filed with Applicant's response of May 27, 2008 and the claims filed with Applicant's previous response of January 28, 2008. This response is being submitted to address the discrepancy set forth in the Notice of Non-Compliant Amendment and other discrepancies identified by the Applicant.